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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 5th December, 1986:—

BILL No. 118 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1986. Short title and commencement.

(*2*) It shall come into force—

(*i*) in the Union territories within a period of six months from the date on which it receives the assent of the President; and

(*ii*) in the States on such dates as the respective State Governments may, by notification in their Official Gazettes, appoint.

2. After article 23 of the Constitution, the following article shall be inserted, namely:— Insertion of new articles 23A, 23B and 23C.

"23A. (*1*) All citizens shall have the right to work and shall be entitled to adequate means of livelihood. Right to employment.

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(2) Failing to procure such means as referred to in clause (1), every citizen shall be entitled to an unemployment allowance to be paid by the State.

Right to free and compulsory education.

23B. (1) All children until they complete the age of fourteen years shall have the right to free education.

(2) Education shall be compulsory for all Children until they have completed in the age of fourteen years.

Monetary assistance to old, sick and diasbled.

23C. The State shall provide monetary assistance to every citizen who has completed the age of sixty years, or remains chronically sick, or is permanently incapacitated or disabled and has nothing to fall back upon and is unable to fend for himself."

STATEMENT OF OBJECTS AND REASONS

Article 39 of the Constitution states, among other things, that "The State shall, in particular, direct its policy towards securing—

(*a*) that the citizens, men and women equally have the right to an adequate means of livelihood".

Article 41 of the Constitution enjoins upon the State to make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement. Similarly, article 45 of the Constitution enjoins upon the State to provide for free and compulsory education for all children upto the age of 14 years.

But these provisions are only in the nature of Directive Principles of State Policy. They are not justiciable and there is no legal sanction behind them. The focal point of the State activity, in the economic sphere, ought to have been the achievement of these objectives. Whereas enough lip sympathy has been showered on those condemned to remain unemployed, the measures taken to combat unemployment have proved far from effective. Strongly enough unemployment has become everyone's birth right in Swaraj. Nothing can shake our people's faith in the democratic system than the nation's failure to provide employment to all able-bodied citizens. Failing this, the minimum the State should do is to provide for unemployment insurance.

The State cannot, in fairness and good conscience, by its neglect, inaction or omission, allow the dilution or diminution of the Directive Principles which it has been directed to preserve and forbidden to infringe.

The Bill seeks to give legal effect to what is contained in articles 41 and 45 and make those provisions justiciable and Fundamental Rights. Unless these provisions are clothed with legal sanction, they will remain nugatory and of no significance as hitherto they have been.

NEW DELHI;
October 14, 1986.

MADHU DANDAVATE.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the payment of monetary assistance in case of old age, unemployment, sickness and disablement and also for the free and compulsory education to children upto the age of 14 years. There are more than 7 million unemployed persons in the country. They should get a minimum subsistance allowance of five rupees per day. The same should be for the aged, sick and the disabled citizens. It is not possible to give an exact estimate of the amount of recurring expenditure but a sum of not exceeding ten million rupees annually is likely to be spent from the Consolidated Fund of India in respect of the Union territories. The share of the Union Government in respect of States will be half and the rest being borne by the Public Sector, the Private Sector and local-self Government bodies.

There will be no non-recurring expenditure.

BILL No. 124 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1986. Short title.

2. In article 85 of the Constitution, in clause (*1*),— Amendment of article 85.

(i) for the words "six months", the words "three months" shall be substituted; and

(ii) **the following proviso shall be added at the end, namely:—**

"Provided that each House of Parliament shall remain in session and transact business for not less than one hundred and fifty days in a year.".

3. After article 123 of the Constitution, the following article shall be inserted, namely:— Insertion of new article 123A.

"123A. Notwithstanding anything contained in this Constitution, no Ordinance shall be repromulgated nor any Ordinance reproducing substantially the provisions of a repealed or a lapsed Ordinance shall be promulgated within a period of five years from the date of the promulgation of the earlier Ordinance.". Limitation on promulgation of Ordinances.

Amendment of article 174.

4. In article 174 of the Constitution, in clause (*1*),—

(*i*) for the words "six months", the words "three months" shall be substituted; and

(*ii*) the following proviso shall be added at the end, namely:—

"Provided that the House or each House of the Legislature of the State shall remain in session and transact business for not less than one hundred and twenty days in a year.".

Insertion of new article 213A.

5. After article 213 of the Constitution, the following article shall be inserted, namely:—

Limitation on promulgation of Ordinances.

"213A. Notwithstanding anything contained in this Constitution, no Ordinance shall be re-promulgated nor any Ordinance reproducing substantially the provisions of a repealed or a laysed Ordinance shall be promulgated within a period of five years from the date of the promulgation of the earlier Ordinance.".

STATEMENT OF OBJECTS AND REASONS

Parliament at the Centre and the Legislatures in the States are the law making bodies in our country. To cope with the extraordinary circumstances necessitating immediate legislation during the periods of recess of these legislative bodies, provisions have been made in articles 123 and 213 of the Constitution for the promulgation of Ordinances by the President and the Governors, respectively, purely as a temporary measure. An Ordinance promulgated under these articles has the same force and effect as an act passed by Parliament or the Legislature of a State. Obviously, the intention of the framers of the Constitution is that the power to promulgate Ordinances should be exercised judiciously and only in extraordinary circumstances and for extraordinary purposes.

A study by the Gokhale Institute of Politics and Economics, Poona, however, reveals that the power conferred by article 213 of the Constitution has been grossly misused. The State of Bihar has been cited as a typical example where this article has been unfairly, unreasonably and possibly unconstitutionally used. On a single day the 18th January 1976, not less than fifty-six Ordinances were promulgated there.

In practice, an Ordinance can remain in force for more than seven and a half months period but, since 1974, if not earlier, in Bihar, irrespective of the parties in power there, this device of re-promulgation of an Ordinance without ever bothering to bring it before the Legislature, has been resorted to by successive Governments.

Dr. D. C. Wadhwa of the said Institute, in his book "Re-Promulgation of Ordinances—A Fraud on the Constitution" has narrated a harrowing story of the monumental fraud being perpetrated on the Constitution in Bihar. The State is being literally run by Governor's Ordinances rather than legislature's laws. There is, to say the least, an "Ordinances Raj". The tally to take the period between 1971 and 1981, has, in accordance with the Bihar Gazette, been like this—in (1971)—Ordinances 113: Acts 8; (1972) 175:5; (1973) 127:13; (1974) 184:16; (1975) 215:28; (1976) 220:30; (1977) 270.26; (1978) 114:13; (1979) 171:10; (1980) 166:4; and (1981) 203:10. One of the instances of re-promulgation of Ordinances cited in the book is of the Bihar Sugarcane (Regulation of Supply and Purchase) Ordinance which was first promulgated on January 13, 1968 and re-promulgated thereafter as many as 38 times until December 31, 1981, covering a span of about 14 years. What was meant to cope with emergency situations has thus been made a general rule of practice.

Another aspect of the situation in Bihar that has been pin-pointed is that no session of the Bihar Legislature since 1967 has ever lasted for anything near 42 days. This is evidently intended to get around or circumvent the constitutional requirement that an Ordinance unless enacted by the Legislature within six weeks of the commencement of its session would automatically lapse.

This rot or the cancer in the body politic, so to say, is now spreading to other States like Uttar Pradesh, though fortunately, the Union Government has not been affected so far.

It is, therefore, felt that it is time to amend the relevant provisions of the Constitution with a view to putting an end to this dubious practice leading to distortion of the Constitution.

Hence, this Bill.

NEW DELHI;
October 14, 1986.

MADHU DANDAVATE

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that each House of Parliament shall be in session and transact business for a period not less than one hundred and fifty days in a year. Normally, each House of Parliament is in session for about 5 months in a year. However, in certain years, Parliament sits for a shorter period only. In that case, the Central Government has to incur expenditure from the Consolidated Fund of India to meet the statutory obligation. The Bill, therefore, if enacted, will incur expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty lakhs per annum.

A non-recurring expenditure of about rupees five lakhs is also likely to be involved.

BILL No. 123 OF 1986

A Bill to amend the Forest (Conservation) Act, 1980.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Forest (Conservation) Amendment Act, 1986.

(2) It shall come into force at once.

Amendment of section 2.

2. In section 2 of the Forest (Conservation) Act, 1980 (hereinafter referred to as the principal Act), after clause (ii), the following provisos shall be inserted, namely:— 69 of 1980.

"Provided that the Central Government shall not withhold its approval for deforestation if the forest land acquired is for public development works such as construction of roads, drinking water schemes, laying of telegraph or telephone lines, electricity lines or any other development schemes for the benefit of the general public:

Provided further that the approval of the Central Government shall not be required if the number of trees to be cut, in the forest land to be acquired for the purposes as provided in the first proviso, is one thousand or less.".

Insertion of new section 3A.

3. After section 3 of the principal Act, the following section shall be inserted, namely:—

Approval of schemes by Central Government within a specified period.

"3A. The schemes approved by the State Governments sent to the Central Government for their approval shall be disposed of by the Central Government within fifteen days of their receipt.".

STATEMENT OF OBJECTS AND REASONS

The Forest (Conservation) Act, 1980 provides that any forest land or any portion thereof may be used for any non-forest purpose provided it has the approval of the Central Government. But the Act also provides that an Advisory Committee may be set up to advice the Central Government with regard to cutting of trees in the forests. This provision may delay some public utility services such as roads, drinking water schemes, telephone lines, electricity lines, etc., which are to be provided through the forests and also require cutting of some trees in the process. It is, therefore, necessary to make it compulsory for the Government not to withhold its approval for these development works and a provision in this regard is required to be made in the Act.

Hence this Bill.

NEW DELHI;
October 14, 1986.

MADHU DANDAVATE

BILL NO. 133 OF 1986

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1986. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 368 of the Constitution, in clause (5), after the words provisions of this Constitution", the words ", including the provisions dealing with the basic structure of the Constitution," shall be inserted. Amendment of article 368

STATEMENT OF OBJECTS AND REASONS

In a democracy people are and should always be considered to be supreme. In India, Parliament, which represents the people of India, should be deemed as supreme. Country is run by peoples' Parliament through the instrument of the Constitution. But, Parliament should rightfully be able to exercise its right to amend any part of the Constitution in the interests of the people. To deny this right to this supreme body of legislature is the very negation of the democracy.

Keshavananda Bharathi case has sought to limit the right of the Parliament stating that the Parliament cannot by way of amendment alter the basic structure of the Constitution. They have worked out certain aspects of the Constitution to be its basic structure.

The present Bill seeks to amend article 368 of the Constitution, to remove all the doubts whatsoever with respect to the powers of the Parliament to amend the Constitution of India.

NEW DELHI;
October 27, 1986.

SHANTARAM NAIK.

BILL No. 139 OF 1986

A Bill to provide for standardisation of style of names of citizens.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Shrot title and commencement.

1. (*1*) This Act may be called the Standardisation of Style of Names of Citizens Act, 1986.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act,—

(*a*) "citizen" means a citizen of India;

(*b*) "first name" means the name of the person;

(*c*) "Government" means the Central Government;

(*d*) "middle name" means the name of father or mother of a person;

(*e*) "sirname" means the caste of a person.

Stylisation of names.

3. From the date of the coming into force of this Act, all citizens shall write their names in the following manner:—

(*a*) a citizen shall write firstly his or her first name, which shall be followed by either his or her father's name or mother's name and shall be followed by his or her sirname;

(*b*) neither the first name, middle name or sirname shall be written in split form but the same shall be written as a composite word.

Illustration

A person's name is Shantaram, his father's name is Laxman and his sirname is Naik. The correct style of his name is "Shantaram Laxman Naik" and the incorrect style is "Shanta Ram Laxman Naik".

Power to make rules.

4. The Government may make rules to carry out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

There is no standardisation or uniformity in writing of names by citizens of our country. People in various States write their names in different manner and style. Members of different castes, religions also write their names in varied fashion. In some parts of the country, citizens use only their first name, not only for social purposes but also in official matters.

It is high time that Indian citizens, whichever State they may belong to, should adopt a uniform way of writing their names. A standard way of writing names will also help in proper identification of citizens.

Hence this Bill.

NEW DELHI;
October 23, 1986.

SHANTARAM NAIK

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL No. 136 OF 1986

A Bill further to amend the Income-tax Act, 1961.

BE it enacted by Parliament in the Thirty-seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Income-tax (Amendment) Act, 1986.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 230A.

2. In section 230A of the Income-tax Act, 1961, in sub-section (*1*),— 43 of 1961.

(*i*) for the words "fifty thousand rupees", the words "five lakh rupees" shall be substituted; and

(*ii*) the following Explanation shall be inserted at the end, namely:—

"*Explanation.*—For the purposes of sub-section (*1*), only the value of individual interest of the person extinguishing his right, title or interest in the property shall be taken into account and not the aggregate value of the property.".

STATEMENT OF OBJECTS AND REASONS

Under section 230A of the Income-tax Act, 1961, any person extinguishing or allotting etc. his right in a property valued at more than Rs. 50,000/- has to obtain a 'No Objection Certificate' from the concerned Income-tax Officer and produce the same before the Register before registering the property.

Now, this requirement is creating undue hardship to the people, especially families, executing partition deeds, etc. The requirement can be a good law for those who transfer or acquire interest in properties worth several lakhs of rupees. Hence, it has been proposed to enhance the ceiling of value of the property for registration purposes, from "fifty thousand rupees" to five lakh rupees".

Secondly, sometimes doubts have arisen in interpretation of the provision with respect to the valuation of the property. Hence, it is essential to clarify that only the value of the individual interest shall be taken into consideration and not the aggregate value of the property.

Hence this Bill.

NEW DELHI;
October 27, 1986.

SHANTARAM NAIK

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F. 155/92/86-TPL, dated 17 November, 1986 from Shri Vishwanath Pratap Singh, Minister of Finance to the Secretary-General, Lok Sabha].

The President, having been informed of the subject matter of the Income-tax (Amendment) Bill, 1986 (*Amendment of section* 230A) by Shri Shantaram Naik, M.P., recommends, under clause (1) of article 117 and clause (1) of article 274 of the Constitution of India, the introduction of the said Bill in Lok Sabha.

SUBHASH C. KASHYAP,
Secretary-General.

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